DOCUMENT RESUME

ED 276 913 CG 019 528

AUTHOR Emshoff, James G.
TITLE Juvenile Diversion: Increasing or Decreasing the Width of the Net?
PUB DATE Aug 86
NOTE 14p.; Paper presented at the Annual Convention of the American Psychological Association (94th, Washington, DC, August 22-26, 1986).
PUB TYPE Reports - Research/Technical (143) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Adolescents; *Court Litigation; *Juvenile Courts; *Program Effectiveness; Program Evaluation; *Sentencing; Youth Problems; Youth Programs
IDENTIFIERS *Diversion (Judicial); *Juvenile Diversion

ABSTRACT

One unintended consequence of juvenile diversion may be that diversion programs widen the net of justice system control, rather than divert youth from the system. This issue was examined in a group of youths who were randomly assigned to either the Adolescent Diversion Project (ADP) or to a control group who received services as usual by the court after referral by an intake referee at the court. Four methods of assessing the extent of net widening were used: (1) analysis of the court files of the first 62 control subjects to determine their eventual dispositions; (2) discriminant analysis of a random sample of court cases (N=253) and comparison to ADP cases (N=248); (3) analysis of questionnaire data provided by referees for 180 cases; and (4) analysis of system processing rates. The results indicated that the ADP did not achieve the goal of reducing the court's formal caseload. Most of the diversion cases were diverted from the 30-day adjournment disposition, which usually involves minimal supervision and monitoring of behavior by an intake referee. These findings question the current value of diversion programs, given their tendency to expand the net of social control over the population of youth. (NB)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED276913

JUVENILE DIVERSION: INCREASING OR DECREASING THE WIDTH OF THE NET?

James G. Emshoff

CG 019528

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☐ This document has been reproduced as received from the person or organization originating it.

☑ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

James G. Emshoff

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Paper presented at the Annual Convention of the American Psychological Association, 94th, Washington, DC, August 22-26, 1986.

Enclosed - APA 82

Diversions programs were originally conceived as a reform to the juvenile justice system. The juvenile justice system itself had been created in response to reformist ideals. Ironically, both the original reform and its secondary reform illustrate the process by which faulty design or faulty implementation of social reforms can lead to unintended consequences (Caplan & Nelson, 1973; Klein, 1979).

This paper will examine the possibility that one unintended consequence of juvenile diversion may be that diversion programs "widen the net" of justice system control, rather than diverting youth from the system. This would be the opposite of diversion's original intent and would occur if a youth who would have been ordinarily warned and released by the police is instead referred to a diversion program.

This net widening creates problems for the realistic evaluation of true diversion. Evaluation of diversion programs becomes difficult when court "processed comparison cases are not truly comparable to diversion youth (Gibbons & Blake). Juveniles with few or prior offenses, who should not have been involved in diversion or any other "program" cannot demonstrate much improvement on their record (Palmer & Lewis). Other problems develop when inappropriate cases are "diverted." The potential cost servings of diversion programs would not be realized as a result of net widening (Rutherford & McDermott, 1976). Ironically, delinquency rates could actually increase because of the greater number of youths monitored by the juvenile justice system and the effects of increased labelling as a result of net widening (Klein et al, 1979). A final concern regarding net widening is how it may constitute an abuse of individual rights due to the greater intrusiveness of the treatment (Hewlett, 1973).

It should be noted that these unintended consequences would not occur if diversion were operationalized as diversion without services, or so called true diversion. In this case, which is extremely rare, even unintended targets of diversion would not be drawn into the supervision and control of the juvenile justice system for any formal agency.

While the above issues have been discussed in several places in a conceptual basis, (Bullington et al, 1978; Klapmuts, 1974; Blomberg, 1980) there is very little empirical research which demonstrates the exact extent of effects of net widening. The present research attempts to fill this gap for more conclusive evidence by using a comprehensive multimethod evaluation strategy applied to one ongoing juvenile diversion program.

Four separate methods of assessing the extent of net widening were employed. Each provides a different type of evidence to answer the following question: Is this diversion program serving the intended set of juveniles - those who otherwise would have received further formal court processing? The methods test the following specific hypotheses:

1) If diversion is occuring as planned, diversion project control group cases returned to intake referees for an alternative disposition will receive further court processing.

2) If diversion is occuring as planned, the characteristics of diversion cases should match up better with cases receiving further court prcoessing than with those dismissed at intake.

3) If diversion is occuring as planned, intake referees will tend to choose further court processing as their preferred alternative disposition for each diversion referral case.

4). If diversion is occuring as planned, and all other factors remain constant, the proportion of cases handled formally by the court should decrease after the initiation of the diversion program.

Method

Setting

The Adolescent Diversion Project ADP was designed with the intention of avoiding net widening, and thus serves as an appropriate setting for assessing the extent to which this process occurs even under the best intentions and design. Youths were randomly assigned to the diversion program or a control group who received services as usual by the court after referral by an intake referee at the court. A more detailed description of the diversion project can be found elsewhere (Emshoff & Blakely, 1985).

Method One - Analysis of Control Group Dispositions

The court files of the first sixty two control groups were examined to determine their eventual dispositions.

Method Two - Discriminant Analysis of a Random Sample of Court Cases

The court files of a random sample of 14% of the intake disposition decisions were examined. The sample was collected from late 1976 to late 1979, a period corresponding with the program under examination. Cases that were ineligible for referral to the diversion program (those on formal probation or institutional placement at the time of the sampled hearing) were dropped from the sample. The resulting sample of 253 cases was compared to the population of 248 ADP cases.

The random sample cases were analyzed through a discrimant analysis which determined which variables combined to distinguish cases released at intake from those who received further court processing. The resulting discriminant

function was then applied to ADP cases. After the discriminant analysis had classified ADP cases on the basis of distinguishing variables, they were checked for proportions that appeared similar to one of three groups, those released at intake, those adjourned and put on informal probation, or those formally processed. Technically, informal probation was rarely used. Instead, juevniles were often placed under the intake worker's observation while their hearing was adjourned for 30 days. The distinction is largely procedural.

Method Three - Analysis of Questionnaire Data Provided by Referees

The "referee referral form", which was not initially used by the ADP, was completed for 180 cases. One question which the referee answered on each of these forms, was "If this youth does not get into the project, what alternative do you recommend?"

Method Four - Analysis of System Processing Rates

Data collected from official court records allowed the calculation of proportions of cases which were processed by the court in each dispositional category on a monthly and yearly basis. These rates were calculated for the four year period preceding the start of the diversion program as well as the three year period of its operation under examination here. A time series analysis (Box & Jenkins, 1976) was used to check for shifts in the trend or drift of the data and for any significant change in the level of the dependent variable as a result of the intervention.

Results

Method 1

The analysis of control group dispositions revealed that 25% were eventually formally handled by the court, 37% were released outright, and 38% received informal probation. In other words, few of the cases referred to the diversion program were in jeopardy of significant court intervention. An alternative explanation is that the control youth who were not accepted into the diversion program might have been given a lighter disposition to avoid penalizing them for a random event.

Method 2

The discriminant analysis indicated that 57% of cases referred to ADP were similar to court cases given informal probation of adjourned. 17% were classified as similar to dismissed cases, while 27% fit the characteristics of formally processed cases.

It appears that the discriminant analysis was a valid method for distinguishing the dispositional groupings of cases. The variables entered in the analysis accounted for 67% of the variance of disposition. The between groups F statistics were all significant at the .001 level indicating that the three types of dispositions involved distinguishable types of cases.

Formal cases were more likely to have a not guilty plea entered by the youth at the hearing. They also were more likely to have had negative comments made by their parents at the hearing and to have had a prior court record. Adjourned cases were more likely to have been petitioned by the police than other cases.

Diversion cases looked like adjourned cases, with a few discrepancies. As a whole, ADP cases have the most negative comments by parents at the

hearings, were slightly more likely to have had a prior court record, and were more similar to formal cases in their living situation.

Method 3

Referees recommended informal probation or adjournment as the preferred alternative disposition for 58% of their ADP referrals. Only 8% were recommended for dismissal, while 33% were found to be fit for formal handling.

It is entirely possible that demand characteristics affected the referees responses. Specifically, the referees may have answered the questionnaire with responses that were perceived to be desirable by the ADP staff.

Method 4

If the ADP had accomplished its ideal goal, diverting only cases that otherwise would have received formal handling, the proportion of cases handled formally by the court would have decreased after the initiation of the project. However, the other results have indicated that the percentage of formal cases in the program was in the range 25%-33%.

As expected, there was no significant change in the percentage of cases formally processed. The proportion of court cases formally handled dropped from 57% to 53%. Because the data from the random sample of court cases drawn for the discriminant analysis was felt to be more accurate, these cases were examined separately. Again, there was no significant change (56% to 54%).

The random sample data were also subjected to a time series analysis of the monthly proportions of dispositions. Because both the pre and post ADP data plots were described by the time series model which indicated white noise, the effect of the diversion program as an intervention could be validly assessed through the use of t test of significance on independent samples. Again, these t tests were not significant.

Lack of significance is not surprising, given that the ADP cases comprised only 10% of the total court caseload at intake and that only 1/4 of these were probably formal cases.

Discussion

Did the ADP have the effect of widening the net of social control by involving youths who otherwise would not have received attention by the court system? It is clear that the project did not achieve the goal of reducing the court's formal caseload. Most of the diversion cases were diverted from the 30 day adjournment disposition, which usually involves minimal supervision and monitoring of behavior by an intake referee or student intern. It may also involve merely a rescheduling of the intake hearing with no court contact in the interim. The ADP was a considerably more intrusive experience, consisting of 6 to 8 hours of contact per week with the volunteer for a period of 18 weeks.

When the ADP is compared to other programs, it probably has a similar or better record of what net-widening (Saul, 1981). However, if one holds the project to the ideal goal of removing youth who would otherwise receive formal court handling from the court system, than the ADP can be considered only a minor success.

The Causes of Net Widening

Why do diversion programs serve the wrong set of clients? The answer is related to the organizational goals and resources of the juvenile justice system. Cases which are adjourned or put on informal probation, which are typical of those referred to the ADP, are perceived by court personnel as needing some sort of services, but probably short of formal probation or

institutionalization. In these cases, diversion programs with services appear to be a reasonable disposition. The court has an outlet for these cases, fills its quotas of diversion referrals, and leaves the diversion program with little room for formal cases.

Erring on the side of false positives is a typical philosophy present in the criminal justice system. The relative levels of error risk in prediction lead to the decision to provide services or treatment to cases where it may not be needed. Therefore, from the court's perspective it is prudent from the courts perspective to expand the number of youth who receive services rather than to reduce it through diversion.

A related explanation is tied to the court's use of fixed available resources for services. Diversion programs, often funded externally, are considered supplemental to regular court programs. Court officials can thus use diversion for providing additional services, acting in a manner of self-perpetuation, and preventing it from dismantling its formal probation caseload by diverting these cases (Blomberg, 1977; Rappaport et al, 1979).

How to minimize net widening

Those interested in seeing that diversion lives up to its ideals must either gain more control over the referral process or persuade court officials to refer the right kind of cases. However, persuasion does not appear to be a match for the current organizational forces which produce net widening. The diversion movement was initiated in response to the belief that traditional court and police handling of delinquents was ineffective, harmful, and should be reduced or eliminated. It is naive to expect the object of this reform to buy into the reform at the risk of jobs, funding, status, and organizational survival (Rappaport et al, 1979).

The administrative agreements governing the diversion program should be made with higher court officials, a higher agency or the legislature and should give intake referees little discretionary power. The agreement should specify guidelines based on empirically derived profiles of the kinds of cases to be eligible for diversion referral. These profiles should be developed from an archival study of previous court cases in order to distinguish the characteristics of cases sent on for formal handling. A program staff person should then check each referral against the guidelines and determine its appropriateness. The agreement should also specify a quota of referrals to make sure that the diversion program is not ignored as an option.

If diversion were offered without service, the court would not be able to use the program as a source of supplemental service, and no net-widening could occur. This form of diversion is unusual, which is not surprising given the desire of courts to use diversion as a resource for net-widening.

Conclusions

The current value of diversion programs is questionable, given their tendency to expand the net of social control over the population of youth. While some diversion services may provide benefits, it is uncertain these benefits outweigh the risks of involvement with the juvenile justice system. This issue should be a focus of diversion evaluation, which should always assess the extent to which a program brings more juveniles into contact with the system. Perhaps equally devastating is the tendency for diversion programs to channel juveniles into an alternative service system, thus trading the delinquent label for the socially handicapped label. In addition to assessing this tendency, evaluation should detemine the extent to which diversion programs provide skills and opportunities for the youths to avoid future legal trouble.

While some programs, such as the ADP, are specifically designed to avoid system involvement through empowerment, the referral of inappropriate cases is clearly counter to its goals. The pessimism in suggested this research and other findings is exacerbated by the lack of external funding, and the likely demand for increased control over programs by any agencies that do pick up the tab for continuation of diversion programming. The likely outcome is that diversion programs will simply become another form of traditional court services.

Future Research

The organizational variables which govern court decision making and diversion referrals should be examined further in future studies. Future research should also focus on the effects of a variety of diversion referral procedures and agreements. Whenever possible, diversion without services should be compared with the more common service oriented diversion programs. The strategies used in the current research to identify the types of cases referred to the program should be used to evaluate any diversion program. The successful use and implementation of diversion programs that are true to their goals is dependent upon continued evaluation of the organizational and system level impacts of diversion.

Blomberg, T. (1980) "Widening the net: an anomaly in the evaluation of diversion programs," pp. 572-592 in M. Klein and K. Teilmann (eds.) Handbook of Criminal Justice Evaluation. Beverly Hills, CA: Sage.

-----(1977) "Diversion and accelerated social control." Journal of Criminal Law and Criminology 68: 274-282.

Box, G. E. P. and G. M. Jenkins (1976) Time Series Analysis: Forecasting and Control. San Francisco: Holden-Day.

Bullington, B., J. Sprowls, D. Katkin, and M. Phillips (1978) "A critique of diversionary juvenile justice." Crime and Delinquency 24 59-71.

Caplan, N. and S. D. Nelson (1973) "On being useful: the nature and consequences of psychological research on social problems." American Psychologist 28: 199-211.

Emshoff, J. G. and Blakely, C. H. (1983) The diversion of delinquent youth: Family-focused intervention. Children and Youth Services Review.

Gibbons, D. C. and G. F. Blake (1976) "Evaluating the impact of juvenile diversion programs." Crime and Delinquency 22: 411-420.

Howlett, F. W. (1973) "Is the YSB all it's cracked up to be?" Crime and Delinquency 19: 485-492.

Klapmuts, N. (1974) "Diversion from the justice system." Crime and Delinquency 6: 108-131.

Klein, M. (1979) "Deinstitutionalization and diversion of juvenile offenders: a litany of impediments" in N. Morris and M. Tonry (eds.) Crime and Justice: An Annual Review of Research Vol. 1. Chicago: University of Chicago Press.

----- K. S. Teilman, S. B. Lincoln, and S. Labin (1979) Diversion as Operationalization of Labeling Theory. Final report on Project No. MH26147 to the Center for Studies in Crime and Delinquency, National Institute of Mental Health. Los Angeles: Social Science Research Institute, University of South Chicago Press.

Palmer, T. and R. Lewis (1980) An Evaluation of Juvenile Diversion. Cambridge, MA: Oelgeschlager, Gunn, & Hain.

-----E. Seidman, and W. S. Davidson (1979) "Demonstration research and manifest versus true adoption: the natural history of a research project to divert adolescents from the legal system," pp. 101-104 in R. F. Munoz et al (eds.) Social and Psychological research in Community Settings: Designing and Conducting Programs for Social and personal Well-Being. San Francisco: Jossey-Bass.

Rutherford, A. and R. McDermott (1976) Juvenile Diversion. Washington, DC: National Institute of Law Enforcement and Criminal Justice, LEAA.

Saul, J. A. (1981) "Do juvenile diversion programs widen the net of social control? An application of system-level evaluation strategies." Master's thesis, Michigan State University.